

COMMITTEE ON BILLS ON SECOND READING

June 5, 2007

**Aldermen Duval, Lopez,
Gatsas, Garrity, Pinard**

5:45 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

Chairman Duval called the meeting to order.

The Clerk called the roll.

Present: Aldermen Duval, Lopez, Gatsas, Garrity, Pinard

Messrs.: Robert MacKenzie

3. Zoning Ordinance Amendments:

Chairman Duval stated I imagine that it is advisable to take these separately and requested the Clerk read the first amendment:

“Amending the Zoning Ordinance of the City of Manchester by extending the Neighborhood Business District (B-1) into an area currently zoned Residential Two Family District (R-2), including two lots, Tax Map 325, Lots 18 and 18A with addresses of 316 and 322 South Main Street and abutting Goffe Street. The intent being that the entirety of these two lots would be in the B-1 District.”

Alderman Lopez moved to recommend that the first ordinance amendment ought to pass. Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

Chairman Duval addressed the second ordinance amendment:

“Amending the Zoning Ordinance of the City of Manchester by extending the General Business District (B-2) into an area currently zoned Urban Multifamily District (R-3), being a portion of Tax Map 315, Lot 8 with an address of 116 South Main Street and abutting Walker Street. A majority of the property is currently zoned B-2 and the petition would extend the B-2 to include the entire lot.”

Alderman Lopez moved to recommend that the second ordinance amendment ought to pass. Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

Chairman Duval addressed the third ordinance amendment:

“Amending the Zoning Ordinance of the City of Manchester by extending the General Business District (B-2) into an area currently zoned Residential One Family District (R-1B), being a portion of Tax Map 381, Lot 47 with an address of 466 South Willow Street and abutting South Lincoln, South Willow and Parkview Streets. A majority of the property is currently zoned B-2 and the petition would extend the B-2 to include the entire lot.”

Alderman Garrity stated I'd like to speak to this briefly. Could you pass out my letter to the Committee, Sir. Last night's testimony at the public hearing...there was a lot of testimony from the neighbors...it's been an on-going issue of that lot for many years since I've been an Alderman and predates my service as their Alderman. It would be my recommendation that the petition be denied based on the fact that this lot in the R1-B zone has looked like this with no improvements over a many number of years. It would be my recommendation that it be denied and that the property owner improve that lot and meet with the neighbors and see what works for everybody in that neighborhood along Parkview Street. After he has his meeting they can come up to an agreement that the neighborhood would like to see happen and see if it works for the summer, see if it pleases the neighborhood. But, in good conscience I could not support this request as their Aldermanic representative and I would move for denial. They are welcome to come back for a petition at a later date but this has been an on-going problem for many years and it's time to hold this business owners feet to the fire.

Alderman Pinard duly seconded the motion.

Chairman Duval stated I would like to allow time for discussion, Alderman Garrity, if you don't mind.

Alderman Lopez stated point of order...accepting the motion when we have discussion and not having any other member be able to discuss before accepting the motion without hearing it I think is unfair...I have a couple of questions in reference to his letter.

Chairman Duval stated Alderman Lopez I don't think there's no problem with discussing this. Alderman Garrity as Alderman of the ward I gave him the courtesy of making a motion, which he did seconded by Alderman Pinard. I certainly think that there's room for discussion and I have some questions to ask of Alderman Garrity myself so Alderman Lopez if you have questions go right ahead.

Alderman Lopez stated I was just wondering if the Alderman had any discussions with the people as far as exactly what the neighbors really wanted. I heard some discussion last night about vehicles being unloaded at eleven o'clock and I took the liberty of talking to some of the people today and the owner of that particular area and they're willing to change that. Also I heard last night that one of the objections was lights going into somebody's home and yard and they're willing to address that. Just to deny it on the basis...maybe going back and having the owner be able to sit down with the people I think it's totally unfair to the person who's been trying to fix up that area for a long time. Has any discussions been had with the owners as far as what you're looking for, Alderman?

Alderman Garrity replied that particular business has been there for a number of years. As far as I know he's really never reached out to any of the neighborhood. This happens in neighborhoods all the time...you call a meeting, he's got a large facility there, he could call everybody down on a Saturday morning or a Sunday morning say hey what do we need to do. I think it's going to be a lengthy process and that's why I would be opposed to tabling at this time. It's not like business owner just moved into the neighborhood. This business owner's been there for a number, number of years. I would challenge any one of my colleagues to walk up and down Parkview Street and find anyone on that street that would be in favor of this request.

Chairman Duval stated just to interject I guess that's something as Chairman of Bills on Second Reading that I'd like to see because I know I've had similar issues with businesses working within the confines of Ward 4 and when they come to the City to pursue through the regulatory process whether it be the Building Department or Planning I know that they at that point want to sort of warm up to the City and become sort of friendly with the neighborhood but prior to that they were acting not terribly responsible as a community member and I think that is what I'm sensing here and I have a real problem with that myself. I would think that that business owner...it would be appropriate for him prior to this being heard at some point in the future to go out and get those signatures of people sort of signing off on it.

Alderman Garrity stated just have a neighborhood meeting...it's a pretty simple process but it's not something that's going to happen in a one month or two month timeframe there's a lot of animosity in that neighborhood towards this particular lot and there's got to be some healing that's going to have to take place and it's nothing that's going to happen in a month or two time so that would be my recommendation to deny. Once all the wounds are healed and everything is done to the neighborhoods liking then hey I don't have a problem bringing it back here and speaking about it again.

Alderman Gatsas asked do you have the minutes of last night's meeting of the people that spoke in favor and those opposed?

Deputy City Clerk Johnson replied not with me...not the minutes but we can get the names of the people.

Alderman Gatsas stated if I remember correctly there were two people that lived on Parkview that spoke in favor.

Deputy City Clerk Johnson stated there were two in favor and there were more than that opposed.

Alderman Gatsas stated I think there were four opposed.

Alderman Garrity stated the two folks that you heard speak in favor are on Doris Street...they don't deal with the issues on Parkview Street. If you go ahead and look at the lot that's where all the traffic is...I have some pictures here that were taken this morning I'd be happy to pass out but if you look at the tree line that's a Parkview Street property...everybody on Parkview Street was opposed to it that spoke last night. The two folks that spoke in favor live on the backside of Autotorium and don't have to deal with the issues that are dealt with by the residents from Parkview Street.

Alderman Gatsas stated if I'm looking at this picture that you so graciously have that the back lot line of the neighbor that's abutting it you can't even see the house so I guess my question is...

Alderman Garrity interjected this is a picture looking south from Parkview Street.

Alderman Gatsas stated I understand that...the abutter to the left you can't even see their house.

Alderman Garrity stated she was one of them that spoke last night.

Alderman Gatsas stated I understand but you can't even see the house...this is a great picture...to say how are they being upset because it looks like there's enough greenage there you couldn't grow that in a hundred years.

Alderman Garrity stated that was a person who spoke at the hearing last night and obviously she's not pleased with the conditions.

Alderman Gatsas stated I just look at that picture.

Alderman Garrity stated I believe that was the person that complained about trucks and cars getting delivered at eleven o'clock at night it was that particular person...she lives right behind this greenery here. This is kind of unique to the ward because Parkview Street splits Ward 8 and Ward 9 so on the north side of Parkview Street are all of my constituents and on the south side is all Alderman DeVries' constituents but I can guarantee you that you take a walk up and you knock on every door on Parkview Street all the way up to South Hall you're not going to find any residents that are thrilled about it or pleased about this at all.

Alderman Gatsas stated maybe the City ought to take it in eminent domain and give him his fair share and do what we want with it as a City because it's certainly not allowing him the best and highest use for the property.

Alderman Lopez stated Alderman Gatsas brings up a very good point and I'd like to ask the Planning Director to comment on this about the comment that the Alderman made about highest use.

Alderman Pinard asked in the past was there ever any complaints when Nixon was really operating out of there?

Alderman Garrity replied I don't think I was even born yet.

Alderman Pinard asked is the complaint just recent or is this something that's been going for five, six or eight years?

Alderman Garrity stated as you could hear from the testimony last night there are a number of homeowners on Parkview Street that have been there since...I believe Mr. Lamy's been there since 1956 and there were a couple of long-time residents that have had issues since before Autotorium. So, it's been on going issues for many, many, many years.

Alderman Pinard asked how many people signed that petition against them last night...anybody take a count?

Deputy City Clerk Johnson asked that signed which petition? Are you talking about the petition to rezone?

Alderman Pinard replied no the petition against the Nixon people.

Alderman Garrity stated there were a number of people that did not sign the sheet that did come up and speak in opposition. As everybody knows public speaking is not something for everybody so I'm quite sure it scares some residents away from coming up publicly and things like that but there were two people signed up in opposition but I believe there was an additional four people that came up when the Mayor asked if there was anybody in opposition.

Chairman Duval stated Alderman Garrity a question for you and then I'll go to Alderman Lopez. Has this been a case where the business has sort of encroached into that area over a period of time or has it always been that size operation?

Alderman Garrity replied it's always been an on-going issue with the cars parked on the R1-B area of the lot. As you can see with the pictures I provided I don't know who would want to look at that everyday but unfortunately the neighborhood is forced to look at that everyday.

Chairman Duval stated sort of an unpaved area, gravel.

Alderman Garrity stated it's an unpaved area it just doesn't look very nice. It's time for the business owner to be responsible and respond to the cries of the neighborhood.

Alderman Lopez asked Mr. MacKenzie could you comment in reference to this...you've been around a long time and I'm sure this has been a major issue. Would rezoning the property be the best use and the best interest of the City or comments you would like to enlighten us on.

Mr. Robert MacKenzie, Director of Planning, stated I would say that this kind of an irregularly shaped portion of the lot has been zoned the way it is for 40 years and that section has never really been used for anything. So to Mr. Gatsas' comment that it's really not at the highest and best use that is correct. Basically have a lot that has not been used for residential purposes for which it's zoned for 40 to 45 years and so it's not used for the highest and best use. I do understand the concerns of the neighbors...we face this frequently on the streets off from South Willow Street...traffic/noise. This is a situation where I think a relatively modest investment by the owner in both operational changes and buffering could have a significant positive impact on the neighborhood. Now whether you want to

approve this subject to making those changes or tabling it until they're made that's your decision. But, I do think that this is a case where again a model investment in landscaping, buffering, fencing, sound berms and some changes in operational characteristics...the lighting, the times of unloading could really have a positive impact for the owner in that neighborhood.

Alderman Lopez stated just to make sure I completely understand that one portion by approving this we could put a "subject to" working with the Planning Department to beautify the area if that's the right word.

Mr. MacKenzie replied I'm comfortable the Planning Board did discuss this. They looked at the same issues you're talking about today and basically their conclusion was that if the Board does approve this they would recommend that the Board require the applicant to work with the Planning Board because they know how to deal with the specifics of buffering, what types of fences work, which ones don't and how to handle lighting. So the Planning Board has a lot of experience with it and I think they could help the situation.

Alderman Garrity stated like I said in my previous statements this property owner, business owner has been there for a number of years. We could hold anything... say you have to do this, you have to do that...well, he hasn't done anything in 20 years so that's the reason for my request for denial. I would not be comfortable tabling this it's like putting the cart before the horse...these problems have to be fixed and it has to be to the neighborhood's satisfaction and it has to have a period of time to see if this works. So if he changes his operation characteristics is he going to do it for three weeks and then once he gets the buffer in there and the zoning...no...there has to be some consistency in operations too and you don't figure that out, in my opinion, until about 3 or 6 months...he can change his operation for three weeks and once he gets his zoning and the buffers in he's home scott free but he has to meet with the neighbors, we have to see if these things work...anytime you get a large number of people together not everybody is going to agree on anything so that could take some time.

Alderman Lopez stated I think that's exactly what Mr. MacKenzie is really saying that if we were to approve this under the condition that he must submit a complete plan to the Planning Department that could also be one of the stipulations...the final plan will not be approved until it meets with all the neighbors...would you agree with that Mr. MacKenzie?

Mr. MacKenzie replied yes. I believe it could be done either way.

Alderman Garrity stated Alderman Lopez we have to make sure the plan's going to work and that's going to take time to figure it out if it's going to work. So rather than table it we could have a new Board by the time they figure out if the plan works or not and we can't hold anything over the table for a new Board or new Committee so that's my reason for my motion for denial at this time.

Alderman Lopez stated just to respond, Mr. Chairman, I'm not asking to table I'm asking to pass it under those conditions and if it's passed and rezoned it has to go to the Planning Board, they have to approve the plan, they have to meet with the neighbors and satisfy the neighbors in that particular area otherwise if this doesn't happen how do you expect the individual, the owner of the property to turn around and do all the work in this particular lot. He's got an investment he's got to do, if he's got to put more trees in or fences. If those were the conditions and he didn't meet those conditions then he can't do anything but he's not going to put money into something just on a promise, on a denial...we've got to do something to help the businesses and also get the taxes at the same time.

Alderman Garrity stated I don't want to belabor the point but I think it's disingenuous of a business owner to come in after being there for that many years and saying alright I'll improve the property as long as I get the rezoning. It's disingenuous, it's not being a good neighbor period.

Chairman Duval stated just a couple of comments if I might. I think that it's evident that the Alderman from the ward is chiefly responsible for responding to ward resident's concerns and needs. There's obviously a track record there of disappointment issues that might have been attended to over the years. I don't think Alderman Garrity would be that impassioned in his plea if the neighborhood wasn't vehemently opposed to what's being proposed in this zoning change. So, with that unless there's further discussion I think we're prepared to take a vote. Alderman Gatsas did you have anything further?

Alderman Gatsas replied no I have nothing further.

Chairman Duval asked Alderman Pinard did you have anything further?

Alderman Pinard stated I'm looking at this and I've lived in that area the biggest part of my life when there was nothing on South Willow and these owners had 40 years to clean up their act and obviously they did not and you have people who were here last night and you have a petition of people who have spoken so I think that by taking a vote and let them clean up their act and let them come back in two or three months and then we can look at it again. But, I think we should deny it now. Thank you.

Alderman Garrity asked move the motion, Mr. Chairman.

Chairman Duval called for a vote on the motion to deny the rezoning petition. The motion carried with Aldermen Gatsas and Lopez duly recorded in opposition.

Alderman Lopez requested a minority report be submitted to the full Board.

Alderman Garrity asked is this coming in at the July meeting.

Deputy City Clerk Johnson replied July.

Chairman Duval asked is there anything else to come before the Committee?

Deputy City Clerk Johnson replied no.

Alderman Lopez asked why can't we bring it in tonight? Bring these all in tonight. Weren't they on the agenda?

Deputy City Clerk Johnson replied they're not on the agenda no.

Alderman Lopez asked is there any reason why we can't bring them in tonight. People have been waiting a long time. I know for example Parks and Recreation and Alderman Smith and Alderman Thibault and myself have been working for the last three years for the Parks over on the west side to have the trail through there and everybody's been waiting to get this done. I know it seems like another month but three years in the making plus the fact that it's been another couple of years going around with the other one and this one here people are saying it makes 40 years...let's take a vote up and down.

Deputy City Clerk Johnson stated the Clerk would advise that to the extent feasible we can prepare the reports to be brought in under new business if it's the will of the Committee.

Chairman Duval stated it's allowed.

Deputy City Clerk Johnson stated yes it is.

Chairman Duval stated I have no problem with it.

Deputy City Clerk Johnson stated I would remind the Committee also that any action taken on the report will still require coming back at the July meeting with the ordinances for adoption and our intent was to submit the report and all of the other information at the same time but we can certainly do the report this evening I believe.

Chairman Duval stated if the Clerk's office can prepare it in time for tonight I have no objection.

There being no further business to come before the Committee, on motion of Alderman Pinard, duly seconded by Alderman Garrity, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee